

**RESOLUTION NO. 2018-105**

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF HIALEAH AND ARTS FOR LEARNING/MIAMI, INC. TO PROVIDE RESEARCH-BASED ARTS PROGRAMMING AT SIX SITES, DURING THE 2019 SUMMER CAMP PROGRAM, FOR A TERM COMMENCING ON JUNE 1, 2019 AND ENDING ON AUGUST 16, 2019, IN AN AMOUNT NOT TO EXCEED \$12,305.00; AND AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT ATTACHED HERETO IN SUBSTANTIAL FORM, AND MADE A PART HEREOF AS EXHIBIT "1".

**WHEREAS**, pursuant to Hialeah, Fla., Resolution No. 2018-080 (August 28, 2018), the Mayor and the City Council accepted a grant award from the Children's Trust in the amount of \$905,998.00, for one year commencing on August 1, 2018 and ending on July 31, 2019;

**WHEREAS**, Arts for Learning/Miami, Inc. will provide the City with summer art-based programming at six (6) sites during the 2019 summer camp program, in connection with the City of Hialeah's Education & Community Services Creative Learning and Play program as detailed in the Agreement;

**WHEREAS**, the City, having investigated the qualifications of the Arts for Learning/Miami, Inc. to perform the all the work necessary to fully carry out its obligations and responsibilities under the Agreement and found Arts for Learning/Miami, Inc. to be qualified and competent; and

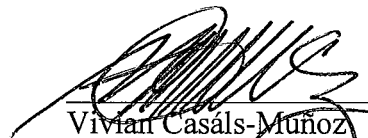
**WHEREAS**, the City of Hialeah finds it in the best interest if he health, safety and welfare of the community to execute this Agreement to benefit students with quality afterschool and summer programs.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The City of Hialeah, Florida hereby approves a Professional Services Agreement between the City of Hialeah and Arts for Learning/Miami, Inc. to provide research-

based arts programming at six sites, during the 2019 summer camp program, for a term commencing on June 1, 2019 and ending on August 16, 2019, in an amount not to exceed \$12,305.00, and authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to execute the Professional Services Agreement attached hereto in substantial form, and made a part hereof as Exhibit "1". The City Council hereby approves, adopts and ratifies all prior actions, approvals, payments and other actions whatsoever taken by the Mayor, or his designee, on behalf of the City in the performance of this Agreement.

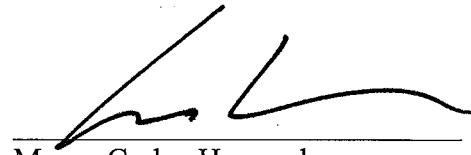
PASSED AND ADOPTED this 13 day of November, 2018.

  
Vivian Casals-Munoz  
Council President

Attest:

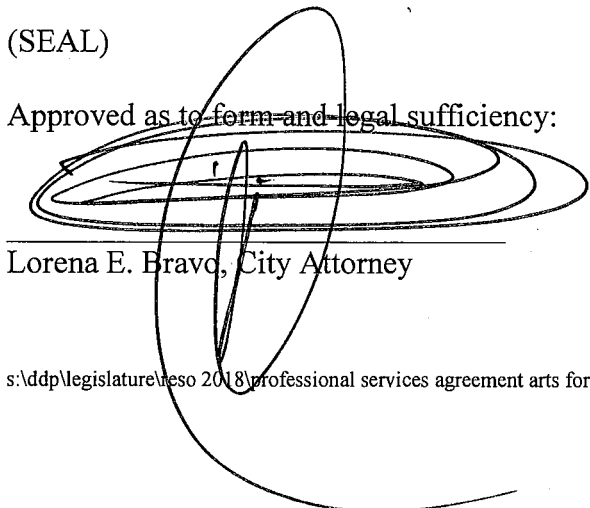
Approved on this 20 day of November, 2018.

  
Marbelys Fatjo  
City Clerk

  
Mayor Carlos Hernandez

(SEAL)

Approved as to form and legal sufficiency:

  
Lorena E. Bravo, City Attorney

Resolution was adopted by a 6-0-1 vote with Councilmembers, Zogby, Lozano, Casals-Munoz, Hernandez, Garcia Martinez and Cue-Fuente voting "Yes" and with Councilmember Caragol absent.

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN ARTS FOR LEARNING/MIAMI, INC.  
AND THE CITY OF HIALEAH**

This Agreement entered into this \_\_\_\_ day of November, 2018 by and between the City of Hialeah, a municipal corporation organized and existing under and by virtue of the laws of the State of Florida ("City"), 501 Palm Avenue, Hialeah, Florida 33010 and Arts for Learning/Miami, Inc., a Florida corporation ("Provider"), having its business address at 404 NW 26 Street, Miami, Florida 33127.

**WHEREAS**, pursuant to Hialeah, Fla., Resolution No. 2018-080 (August 28, 2018), the Mayor and the City Council accepted a grant award from the Children's Trust in the amount of \$905,998.00 for one year, commencing on August 1, 2018 through July 31, 2019;

**WHEREAS**, the City Council approved the selection of Arts for Learning/Miami, Inc. to provide a research arts-based program to promote literacy and creativity to participants in the summer Creative Learning & Play program, together with supplies, in an amount not to exceed \$12,305.00; and

**WHEREAS**, the City, having investigated the qualifications of the Provider to perform the services herein contemplated and found the Provider to be qualified and competent; and

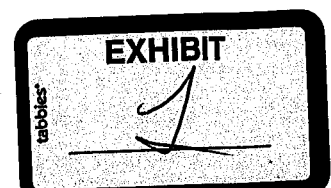
**WHEREAS**, the Provider, having expressed her desire and willingness to provide such professional services and having presented her qualifications to the City as provided in a resume; and

**WHEREAS**, the City agrees to enter into this Agreement with the Provider and the Provider agrees to accept this Agreement under the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties hereto understood and agree as follows:

**I. INCORPORATION OF RECITALS**

The parties represent that the recitals set forth above are true and correct. The recitals are incorporated by reference in their entirety and are deemed a part of this Agreement.



## **II. SCOPE OF SERVICES**

A. Provider shall provide the City with an art-based enrichment program for the participants of the City's Education and Community Services Department summer program Creative Learning and Play program, as more particularly described in Exhibit "A", attached hereafter and incorporated herein.

B. Provider shall provide all personnel, equipment, materials and supplies that may be reasonably inferred from this Agreement, whether or not expressly identified as necessary or required, to perform the services as provided by this Agreement.

C. Provider warrants and represents that its employees, subcontractors or agents performing the services required under this Agreement have the proper skill, training, background, knowledge, experience, certification, license, insurance, integrity and character necessary to perform the services in a competent and professional manner.

D. Provider warrants that it will, at all times, employ, maintain and assign to the performance of this Agreement a sufficient number of competent and qualified personnel.

E. Provider shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations or rules in the performance of this Agreement. Provider shall, at its sole cost and expense, pay for and maintain in full force and effect all policies of insurance, permits, certifications, and licenses required to provide the services required under this Agreement. Furthermore, Provider shall, at its sole cost and expense, pay for all fees and any other regulatory or government assessments, fees, charges or taxes required for the performance of its services under this Agreement.

## **III. TERM**

The Provider agrees to provide services within a term commencing on June 1, 2019 and ending on August 16, 2019 ("Term"). This Agreement will be in effect during the Term indicated above. All services, work and activities as described in Exhibit "A" shall be undertaken, performed and completed within the Term provided herein and prior to the expiration of this Agreement. The City reserves the right to extend the commencement date of the services.

## **IV. COMPENSATION**

A. City shall pay the Provider, as maximum total compensation for all services performed in an amount not to exceed \$12,305.00, during the term of this Agreement, which includes a minimum of 72 sessions, at a rate not to exceed \$178.33 session, for each more particularly described in Exhibit "A".

B. The Provider must invoice the City for the classes instructed. The invoice shall be paid within 30 days from the date of receipt and only upon verification by the City of

satisfactory completion of the services invoiced. The Provider must obtain prior written approval of the City prior to performing services that are outside the Services or contrary to the terms of this Agreement. The city shall not pay for any cost or expense not otherwise expressly contemplated herein, including but not limited to travel expenses. The City will only pay Provider for the actual number of classes instructed at the agreed upon rate, regardless of the reason for the change in number of classes and without consideration as to fault.

C. Compensation is contingent upon funding from The Children's Trust and to the extent that the City does not receive sufficient funding to pay for future services not yet rendered during the term of this Agreement, the City is entitled to cancel this Agreement based on lack of or insufficient funding.

## **V. INDEPENDENT CONTRACTOR**

The Provider, its employees, agents or representatives, shall be deemed to be independent contractors and not agents or employees of the City. The City shall have no obligation to pay or provide for Provider's employees, agents, representatives, or subcontractors. Provider's employees, agents, representatives, or subcontractors shall not attain any right or benefit under the civil service or pension ordinances of the City, or any right or benefit generally afforded classified or unclassified employees of the City, such as pension benefits, worker's compensation, health insurance, unemployment benefits, or any other right or privilege granted to the City's officers and employees.

## **VI. OWNERSHIP OF DOCUMENTS**

A. All documents developed by the Provider under this Agreement shall be delivered to City by the Provider upon completion of the services required pursuant to paragraph II hereof and shall become the property of City, without restriction or limitation of its use. City assumes the risk of reuse of all documents developed by the Provider upon delivery after completion of services. The Provider agrees that all documents maintained and generated hereto shall be subject to the applicable provisions of the Public Records Law, Chapter 119, Florida Statutes.

B. It is further understood by and between the parties that any information, writings, tapes, maps, contract documents, reports or any other matter whatsoever which is given by City by the Provider pursuant to this Agreement shall at all times remain the property of the City and shall not be used by the Provider for any other purposes whatsoever without the written consent of the City. Notwithstanding the foregoing, the Provider may use such documents for promotional purposes or advertising.

## **VII. NONDELEGABLE**

The Provider acknowledges that in entering upon this Agreement, the City has relied upon the Provider's professional background and experience, including any prior experience in providing these or other similar services to the City. As such, the duties

and obligations undertaken by the Provider pursuant to this Agreement shall not be delegated or assigned to any person or entity, in whole or in part, unless the City and Florida Department of Education shall first consent in writing to the performance or assignment of such service or any part thereof by another person or entity. In any instance wherein the Provider desires to effect an assignment or delegate any right or responsibility of performance under this Agreement, Provider shall provide to the City all documents and information that the City may reasonably request to allow the City to evaluate whether the proposed assignee or delegate has the integrity, reliability, experience and capability in all respect to fully perform in good faith. Consent shall not be unreasonably withheld, and all subcontractors or assignees shall be governed by the terms and conditions of this Agreement.

### **VIII. AWARD OF AGREEMENT**

The Provider warrants that it has not employed or retained any person employed by the City to solicit or secure this Agreement and that she has not offered to pay, paid, or agreed to pay any person employed by the City any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or resulting from the award of this Agreement.

### **IX. CONSTRUCTION OF AGREEMENT**

This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue for any litigation, which may arise in connection with this Agreement, shall be in Miami-Dade County, Florida. The Provider agrees to be subject to the jurisdiction (subject matter and in personam) of the courts in Miami-Dade County, Florida and amenable to process.

### **X. SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon the parties herein, their heirs, executors, legal representatives, successors and assigns.

### **XI. INDEMNIFICATION**

Provider, for itself, its successors, assigns, executors, administrators, and anyone else who might attempt to sue on its behalf, hereby waives, releases, holds harmless, indemnifies, covenants not to sue, agrees to defend, and forever discharges the City of Hialeah, its officers, elected or appointed, directors, employees, agents, attorneys, contractors and all other persons, entities, organizations and corporations affiliated therewith (all of whom constitute the "Released Parties") from any and all kinds of claims, suits, causes of action, damages, losses, liabilities, costs or expenses, including court costs and attorney's fees at all level of proceedings (including appellate level), and any judgments, orders or decrees entered thereon or resulting therefrom, for any personal injury, loss of life, damage to property, or any other liability, loss, cost or expense of any

kind (collectively "Claims"), arising out of, resulting from, (or relating to the Services to be provided pursuant to this Agreement or Provider's exercise of any right or discharge of any obligation pursuant to the terms of this Agreement), whether or not such claim, suit, cause of action, injury, damage, loss, liability, cost, expense, judgment, order, or decree was caused by, arose or resulted from the NEGLIGENCE ACTS OR OMISSIONS of the Released Parties or was caused by, arose or resulted from any condition, (regardless of whether such condition was known or unknown, open, obvious, foreseeable or unforeseeable, hidden or not) on the property, facilities or equipment used in the performance of the Services. This Section shall survive the termination of this Agreement.

Provider covenants and agrees that it will, at its own expense, defend any and all Claims against the Released Parties, which may be brought in connection or as a result of Provider's exercise of any right or discharged of any obligation including Provider's use or occupation of the Premises pursuant to this Agreement. Provider will satisfy, pay and discharge any and all settlement agreements, judgments, orders or decrees that may be entered against the Released Parties in any such action or proceeding.

Provider agrees, at Provider's expense, after written notice from the City, to defend any action against the City that falls within the scope of an indemnity provided in this Section, or the City, at the City's option, may elect instead to secure its own attorney to defend any such action and the reasonable costs and expenses of such attorney incurred in defending such action shall be payable by Provider.

The parties agree that the provisions of this Section do not benefit any third party, and are not intended to benefit any person or entity that is not a party to this Agreement. Instead, the provisions of this Section are solely for the City's benefit.

## **XII. LIMITATION OF LIABILITY**

The City's total liability to the Provider for any and all liabilities, claims, or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not in the aggregate, exceed the amount owed to the Provider by the City under this Agreement.

In no event shall the City be liable to the Provider for any punitive, exemplary, special, indirect, incidental, or consequential damages (including, but not limited to, lost profits, lost business opportunities, loss of use or equipment down time, and loss of or corruption of data) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even of the parties have been advised of the possibility of such damages or loss.

### **XIII. CONSENT OF PARTICIPANTS**

The Provider agrees and acknowledges that participants in the programs described in the Scope of Services will be requested to provide consent to allowing information relating to such participation to be disseminated and released to The Children's Trust, the funding source.

### **XIV. INSURANCE**

A. Provider shall provide, pay for and maintain in force at all times during the term of this Agreement, such insurance, including Worker's Compensation Insurance, Employer's Liability Insurance, Comprehensive General Liability Insurance, Business Automobile Liability Insurance, in such amounts specified in Exhibit "B".

B. Such policy or policies shall be issued by the United States Treasury-approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in the State of Florida. Provider shall specifically protect the City by naming the City as additional insured under the Comprehensive General Liability Insurance Policy and shall not include an exception or exclude claims for assault and/or battery.

C. Provider shall provide the City with a Certificate of Insurance or copy of all insurance policies required by this section. All endorsements and certificates shall state that the City shall be given 30 days' notice prior to expiration or cancellation of the policy.

### **XV. CONFLICT OF INTEREST**

A. The Provider covenants that no person under her employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interests, direct or indirect, with the Provider. The Provider further covenants that, in the performance of the Agreement, no person having such conflicting interest shall be employed. Any such interest on the part of the Provider or her employees must be disclosed in writing to the City.

B. The Provider is aware of the conflict of interest laws of the City, Hialeah Code Ch 26, Art. I and II; Code of Miami-Dade County, Florida, § 2-11.1 et seq., and the State of Florida, Chapter 112, Part III, Florida Statutes and agree that it shall fully comply in all respects with the terms of such laws.

### **XVI. NOTICE**

All notices or other communications which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day in which it was personally served; or if by mail, on the date of actual receipt.



**CITY**

Sharon Dziedzic, Director  
City of Hialeah  
Education and Community Services Dept.  
7400 West 24 Avenue, 2<sup>nd</sup> Floor  
Hialeah, Florida 33016  
Telephone: (305) 818-9143  
FAX: (305) 818-9841

**NEXPLORE, LLC**

Dori Larea  
20533 Biscayne Blvd  
Suite 276  
Aventura, Florida 33180

**XVII. TERMINATION**

A. **Termination without Cause:** The City retains the right to terminate this Agreement upon 30 days written notice prior to the completion of the service required pursuant to Section I hereof without penalty to the City. In that event, notice of termination of this Agreement shall be in writing to the Provider who shall be paid for those services performed prior to the date of its receipt of the notice of termination. In no case, however, will City pay the Provider an amount in excess of the total sum provided by this Agreement.

B. **Termination for Cause:** The City may terminate this Agreement for cause, which shall include but not be limited to the following:

- a. Provider's failure to comply and/or perform in accordance with this Agreement; or
- b. Provider's performance of this Agreement, for any reason, is rendered impossible or not feasible; or
- c. Provider's filing of a voluntary petition in bankruptcy or reorganization, or making any assignment for the benefit of creditors, or seeking any similar relief under any present or future statute, law or regulations relating to relief of debtors; or
- d. Provider is adjudicated bankrupt or has any involuntary petition in bankruptcy filed against it;
- e. If Provider causes or commits one or more of the foregoing acts or events that would give rise to termination for cause, then, after seven (7) days written notice provided to Provider by the City within which to cease and/or correct such deficiencies, and upon failure to do so after such written notice, this Agreement is hereby revoked and canceled without the need for other or further action by City.

C. **Default and Notice to Cure:** Before the City terminates this Agreement pursuant to this Section, it shall give written notice to the Provider that a default exists which will, unless corrected, constitute an event of default. The notice shall inform the Provider that this Agreement shall be terminated unless the default is cured within seven (7) calendar days following the Provider's receipt of the notice. If a cure cannot reasonably be effected within seven (7) days despite the exercise of due diligence, the Provider may request an extension of the cure period in writing providing a detailed explanation why the cure cannot be completed within seven (7) days. The request shall be delivered prior to the expiration of the cure period. If the Provider's request is reasonable, as determined by the City's representative or his/her designee, the time to cure the default shall be extended for such additional time as is reasonably necessary to effect a cure, provided that the Provider exercises continuous diligent efforts to cure the default during the extended cure period. If the Provider fails to cure the default within the cure period, or fails to exercise continuous diligent efforts to cure the default, the City may terminate this Agreement. The termination shall take effect as of the date specified in the notice of default provided by the City. Upon termination, the City may cure the default at the expense of the Provider, and have recourse to every other right and remedy to which the City is entitled under this Agreement, at law, or in equity.

D. **Effect of Termination:** It is hereby understood that any payment made to the Provider in accordance with this section shall be made only if the Provider is not in default under the terms of this Agreement. If the Provider is in default, then the City shall in no way be obligated to pay and shall not pay the Provider any sum.

### **XVIII. PUBLIC RECORDS**

The Provider shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes to the extent that the Provider and this Agreement are subject to the requirements in Section 119.0701, Florida Statutes, the Provider shall:

- a. Keep and maintain all records that ordinarily and necessarily would be required to be kept by the City in order to perform the services provided hereunder;
- b. Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost specified in Chapter 119, Florida Statutes, or other laws;
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
- d. Comply with all requirements for retaining public records and transfer, at no cost, to the City all records in the possession of the Provider at the expiration

or termination of this Agreement, and destroy all public records that are confidential and exempt from public records disclosure requirements.

IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY CLERK, THE CITY'S DESIGNATED CUSTODIAN OF PUBLIC RECORDS, BY TELEPHONE AT 305-883-5816, BY EMAIL AT [mrubio@hialeahfl.gov](mailto:mrubio@hialeahfl.gov) OR IN WRITING AT OFFICE OF THE CITY CLERK, 501 PALM AVENUE, 3<sup>RD</sup> FLOOR, HIALEAH, FL 33010.

Notwithstanding the provisions of this Agreement regarding a reasonable cure period for a breach by PROVIDER, any failure of Provider to comply with a request for public records within a reasonable time period or as otherwise required by F.S. 119.0701 is breach of this contract. The City shall exercise all remedies available at law or equity.

#### **XIX. NONDISCRIMINATION**

Provider represents and warrants to City that Provider does not and will not engage in unlawful discriminatory practices and that there shall be no unlawful discrimination in connection with Provider's performance under this Agreement on account of race, color, sex, religion, age, handicap, disability, marital status, national origin, ancestry, familial status, or sexual orientation. Provider further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status, national origin, ancestry, familial status, or sexual orientation unlawfully be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.

#### **XX. COMPLIANCE WITH AGREEMENT BETWEEN THE CITY AND HUD, CDBG GRANT**

The Provider agrees that as a subcontractor of the City who is the recipient of funding from the HUD CDBG Grant, the Provider shall comply with the applicable provisions of the grant agreement between the City and the HUD CDBG Grant, including any laws, rules, regulations, policies, procedures, guidelines or documents incorporated or referenced in the grant agreement.

#### **XXI. STAFFING AND EMPLOYEE BACKGROUND SCREENING**

*A. Appropriate staffing.* The Provider represents that all people performing the services required under this Agreement possess the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services (Exhibit "A") and to provide and perform such services to the satisfaction of the City. The

Provider further represents that all persons delivering services required by this Agreement have complied with all state and federal requirements, including, but not limited to, Level I and Level II background screening requirements. The Provider certifies that all such individuals are qualified and approved for providing services herein.

B. *Employee background screening.* According to sections 984.01(2)(a), 985.01(2)(a) and 39.001, Florida Statutes, only employees, volunteers and subcontracted personnel with a satisfactory background check through a screening agency may work in direct contact with children under the age of eighteen. Background screenings must be completed through the Florida Department of Law Enforcement (FDLE), VECHS Program. However, satisfactory background screening documentation will be accepted for those agencies that already conduct business with either the Department of Children and Families (DCF) or the Department of Juvenile Justice (DJJ) or the Miami-Dade Public School System (MDPS). In addition, an Affidavit of Good Moral Character must be completed and notarized for each employee, volunteer and subcontracted personnel upon hiring.

## **XXII. COOPERATION WITH FINANCIAL AUDIT AND REPORTING REQUIREMENTS**

If the HUD CDBG seeks to audit the activities of the City as the grant recipient, the Provider shall fully cooperate and provide all relevant financial documents to facilitate such audit conducted under the Office of Management and Budget Circular A-133, Audit of States, Local Government and Non-Profit Organizations and the Florida Single Audit Act. In addition, the Provider shall fully comply with reporting requirements as determined by the City during the term of this Agreement.

## **XXIII. CONSENT OF PARTICIPANTS**

The Provider agrees and acknowledges that participants in the programs described in the Scope of Services will be requested to provide consent to allowing information relating to such participation to be disseminated and released to the HUD CDBG Grant, the funding source.

## **XXIV. ENTIRE AGREEMENT**

This Agreement and its attachments and exhibits constitute the sole and only agreement of the parties and accurately set forth the rights, duties, and obligations of each to the other. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect.

## **XXV. AMENDMENT**

No amendments to this Agreement shall be binding on either party unless in writing and signed by both parties.

## **XXVI. SOVEREIGN IMMUNITY**

Nothing in this Agreement shall be interpreted or construed to mean that the City waives its common law sovereign immunity or the limits of liability set forth in Section 768.28, Florida Statutes.

## **XXVII. MISCELLANEOUS**

A. Captions, title and paragraph headings are for convenient reference and are not a part of this Agreement. Such captions, title or paragraph headings shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions contained in this Agreement.

B. In the event of conflict between the terms of this Agreement and any terms or conditions in any attached document; the terms in this Agreement shall prevail.

C. No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

D. Should any provisions, paragraph, sentence, work or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida or the City of Hialeah, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

E. Further Assurances. All parties hereto upon the request of any other party shall execute such further instruments or documents as may be reasonably required by the requesting party to implement the terms, conditions and provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the respective duly authorized officials, on the day and year first above written.

City of Hialeah, Florida  
501 Palm Avenue  
Hialeah, Florida 33010-0040

Attest:

Authorized signature on behalf of  
City of Hialeah

\_\_\_\_\_  
Marbelys Fatjo, City Clerk

\_\_\_\_\_  
Mayor Carlos Hernandez

(SEAL)

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lorena Bravo, City Attorney

Arts for Learning/Miami, Inc.,  
a Florida corporation  
1900 Biscayne Boulevard, Suite 201  
Miami, Florida 33132

\_\_\_\_\_  
Witness

Typed/printed name: \_\_\_\_\_

\_\_\_\_\_  
Sheila Womble

\_\_\_\_\_  
Date

Executive Director

\_\_\_\_\_  
Witness

Typed/printed name: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
SECRETARY

STATE OF FLORIDA                    )  
                                                  ) SS:  
COUNTY OF MIAMI DADE        )

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared \_\_\_\_\_ as \_\_\_\_\_, of Arts for Learning/Miami, Inc., a Florida corporation, and he/she executed the foregoing Agreement as the proper official of \_\_\_\_\_ for the uses and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal in the state and county aforesaid on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission expires:



**EXHIBIT "A"**



## Memorandum of Understanding

This Memorandum of Understanding, with the attached scope of services, is to describe a partnership between Arts for Learning and City of Hialeah Education & Community Services Department, hereinafter referred to as "Partners" for the purpose of providing services to the summer programs in selected sites funded by The Children's Trust under contract #1914-2760.

It is understood by the Partners that should the proposal be funded and a grant contract is issued to City of Hialeah Education & Community Services Department by The Children's Trust, that a memorandum of understanding and scope of services will be agreed upon by Arts for Learning and City of Hialeah Education & Community Services Department and will include the same terms as negotiated in the contract with The Children's Trust.

As a contractor, and not an employee, Arts for Learning is not covered by the City's employee workman's compensation policy for any on the job injury. It is understood that the contractor must carry their own insurance coverage for any injury sustained while under this contracted work.

As a contractor for the Creative Learning and Play program, it is understood that compliance will be met with all of the requirements of the City of Hialeah as well as the funding agency, including, but not limited to submitting to a level-2 background check every 5 years, complying with the City's Hold Harmless Agreement, complying with the City's Good Moral Character Affidavit, maintaining requirements of the State of Florida's Department of Children and Families as regards to child-care workers, and maintaining the requirement of the State of Florida's Jessica Lunsford Act. Contractors will provide on a timely basis any needed documents to meet the terms of contract # 1914-2760 between the City and the Children's Trust.


The City of Hialeah will retain all children's records and record confidentiality will be maintained by all parties.

If The Children's Trust does not fund said proposal, or if The Children's Trust funds the proposal in a reduced amount, or changes the terms of an executed contract with the City of Hialeah, a new Memorandum of Understanding and scope of services will be negotiated between the Partners each budget year.

  
Arts for Learning/Miami, Inc  
Authorized Signature

Date

10/22/18

  
Sharon Dziedzic, Education Supervisor I  
Education & Community Services Department  
Authorized Signature

Date

10/22/18

**Arts for Learning – Scope of Services for Creative Learning & Play**

**Summer Camp for One of Five Years under contract # 1914-2760**

**City of Hialeah Education and Community Services Department**

**Summer Camp Services**

Arts for Learning (A4L) will provide an art-based enrichment program as described in their quote and this scope for the participants of the City of Hialeah's Education and Community Services Department summer camp Creative Learning and Play (CL&P) program. Arts for Learning has experience with research-based arts programming which is designed to improve literacy outcome in participants. Programming will focus on developing creativity, critical thinking, theatre arts and literacy skills to enhance the City of Hialeah's Education and Community Services Department's Creative Learning & Play Summer Camp Program. The unit to be provided is approved by The Children's Trust as an art enhancement activity.

**Frequency of services**

- Services will be scheduled as: Two (2) session a week, one (1) group a week, for Twelve (12) sessions at each site, all of which are contingent based on capacity and need to serve program participants.
- 45-60 minutes per session as determined during scheduling.
- Each group will consist of a maximum of 25 students at \$178.33 per class (multi-site discount included in quote for sites 2-6)
- One (1) Teaching Artist per site
- Program Supplies are included in the quote.
- Serving 6 sites- Babcock, Walker, Hoffman, Goodlet, Slade and Wilde.
- Summer Semester will run June 2019- August 2019, Sessions and Sites (TBD)

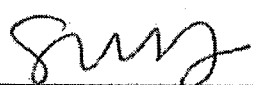
**Program cost:**

**Not to exceed \$12,305.00**

Every attempt will be made by both parties to reschedule cancelled classes/sessions. If the numbers of weeks or session are reduced, the amount paid to *Arts for Learning* will be pro-rated according to the reduction of services. If for any reason, the services are not completed during the contract period due to circumstances beyond A4L's control (e.g. program cancellation, weather conditions, etc.) it is understood that the amount of the contract will not be decreased. If A4L is unable to complete the Services for reasons within A4L's control, City of Hialeah's Education & Community Services Department is not responsible for payment of services not rendered. Payments to *Arts for Learning* will be made on a monthly basis upon delivery of services. Sites / Sessions / Grouping may be adjusted upon agreement of both parties.

  
Arts for Learning/Miami, Inc  
Authorized Signature

10/22/18  
Date

  
Sharon Dziedzic, Education Supervisor I  
Education & Community Services Department  
Authorized Signature

10/22/18  
Date



**EXHIBIT "B"**  
**CITY OF HIALEAH**  
**INSURANCE CHECK LIST**

INSURANCE	LIMITS
<u>X</u> 1. WORKERS' COMPENSATION AND EMPLOYEE'S LIABILITY	STATUTORY LIMITS OF THE STATE OF FLORIDA
<u>X</u> 2. COMMERCIAL GENERAL LIABILITY PREMISES OPERATIONS INCLUDED; PRODUCTS AND COMPLETED OPERATIONS INCLUDED; INDEPENDENT CONTRACTORS (O.C.P.) INCLUDED; ELEVATORS INCLUDED; SUPERVISION EXCLUSION DELETED; PERSONAL INJURY LIABILITY INCL	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE COMBINED EACH OCCURRENCE
<u>X</u> 3. BROAD FORM PROPERTY DAMAGE ENDORSEMENT	
<u>X</u> 4. CONTRACTUAL INDEMNITY/HOLD HARMLESS ENDORSEMENT EXACTLY AS WRITTEN IN "INSURANCE REQUIRE- MENTS" OF SPECIFICATIONS	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY & PROPERTY DAMAGE COMBINED EACH OCCURRENCE
<u>X</u> 5. AUTOMOBILE LIABILITY OWNED NON- OWNED/HIRED AUTOMOBILES INCLUDED	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY & PROPERTY DAMAGE COMBINED EACH OCCURRENCE
<u>X</u> 6. UMBRELLA LIABILITY	\$1,000,000 EXCESS OF ALL PRIMARY COVERAGE
<u>  </u> 7. GARAGE LIABILITY	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE COMBINED EACH OCCURRENCE
<u>  </u> 8. GARAGEKEEPER'S LEGAL LIABILITY	\$100,000 EACH OCCURRENCE

- |           |     |                                                                                                                                                                                                                                                                    |                                           |
|-----------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| <u>X</u>  | 9.  | THE CITY MUST BE NAMED BY ENDORSEMENT AS ADDITIONAL INSURED ON THE INSURANCE POLICY AND THE FOLLOWING MUST ALSO BE STATED ON THE CERTIFICATE. "THESE COVERAGES ARE PRIMARY AND NON-CONTRIBUTORY TO ALL OTHER COVERAGES THE CITY POSSESSES FOR THIS CONTRACT ONLY." |                                           |
| <u>  </u> | 10. | TEACHERS PROFESSIONAL LIABILITY                                                                                                                                                                                                                                    | \$1,000,000 EACH CLAIM                    |
| <u>  </u> | 11. | LIQUOR LEGAL LIABILITY                                                                                                                                                                                                                                             | \$1,000,000<br>EACH OCCURRENCE            |
| <u>  </u> | 12. | CROSS LIABILITY OR SEVERABILITY OF INTERESTS CLAUSE ENDORSEMENT                                                                                                                                                                                                    |                                           |
| <u>  </u> | 13. | XCU PROPERTY DAMAGE EXCLUSION DELETED AND THIS COVERAGE WILL PROVIDED                                                                                                                                                                                              |                                           |
| <u>  </u> | 14. | BUILDERS RISK                                                                                                                                                                                                                                                      | FULL CONSTRUCTION COSTS OF<br>THE PROJECT |
| <u>  </u> | 15. | OTHER INSURANCE AS INDICATED BELOW:                                                                                                                                                                                                                                |                                           |
| <u>X</u>  | 16. | THIRTY (30) DAYS CANCELLATION NOTICE REQUIRED                                                                                                                                                                                                                      |                                           |
| <u>X</u>  | 17. | BEST'S GUIDE RATING                                                                                                                                                                                                                                                | A-X OR BETTER OR ITS EQUIVALENT           |
| <u>X</u>  | 18. | THE CERTIFICATE MUST STATE THE BID NUMBER AND TITLE                                                                                                                                                                                                                |                                           |
| <u>  </u> | 19. | CYBER LIABILITY                                                                                                                                                                                                                                                    | \$1,000,000<br>EACH CLAIM                 |
| <u>  </u> | 20. | POLLUTION LIABILITY                                                                                                                                                                                                                                                | \$1,000,000<br>EACH CLAIM                 |
| <u>  </u> | 21. | ERRORS & OMISSIONS/PROFESSIONAL LIABILITY                                                                                                                                                                                                                          | \$1,000,000<br>EACH CLAIM                 |